

REMARKS

Claims 1 to 8 and 10 to 12 are pending in this application. Claims 1-8 and 10-12 have been amended.

The Examiner objected to claims 5 and 6 as being dependent on rejected claims, but indicated that these claims would be allowable if placed into independent form. Applicants have amended claims 5 and 6 to place them independent, thereby placing them into allowable form.

The Examiner rejected claims 1, 7, 8, and 10-12 under 35 U.S.C. § 102(e) as anticipated by Weijand et al. (U.S. Patent No. 5,999,857). The Examiner also rejected claims 1, 2, 4, 7, 8, and 10-12 under 35 U.S.C. § 102(e) as anticipated by Barreras, Sr. et al. (U.S. Patent No. 5,735,887), and claim 3 under 35 U.S.C. § 103(a) as being unpatentable over Barreras, Sr. et al. in light of the knowledge of one of ordinary skill in the art. Applicants respectfully traverse these rejections.

The Examiner argues that both Weijand et al. and Barreras, Sr. et al. disclose the claimed invention including, in the case of Weijand et al. “[p]ower supply (battery 66) is the energy means for the telemetry receiver and capacitors 12a and 12b are the energy storage means for the transmitter”, and in the case of Barreras, Sr. et al. “capacitor 73 being used to supply energy for the reception of data and capacitor, 105, supplying energy for the transmission of data.” However, the Examiner acknowledges that in neither reference do the cited capacitors provide sufficient energy to the relevant components to completely power the transmission or reception of data, and that the battery in each reference supplies energy to both components simultaneously.

Amended claim 1 recites: “. . . at least two energy storage buffer capacitors, wherein the telemetry device comprises a telemetry transmitter and a telemetry receiver, and wherein the telemetry transmitter is provided with one of the at least two energy storage buffer capacitors for providing sufficient energy for the telemetry transmitter to transmit data, and the telemetry receiver is provided with a separate

Application No. 09/603,812

one of the at least two energy storage buffer capacitors for providing sufficient energy for the telemetry receiver to receive data.”

Applicants’ claims 11 and 12 also recite: “...wherein the telemetry transmitter is connected to one of the energy storage buffer capacitors for transmitting data, and the telemetry receiver is connected to a separate one of the energy storage buffer capacitors for receiving data.”

Therefore, the quoted elements of Applicants’ claims are absent from both the Weijand et al. and Barreras, Sr. et al. references and therefore make Applicants’ claims novel and unobvious. Not only do the capacitors disclosed in both the Weijand et al. and Barreras, Sr. et al. references not provide “sufficient” energy for either the transmitter to transmit or the receiver to receive data, as acknowledge by the Examiner in his official Action (See, for example, 2/25/03 Official Action; Page 2; 2nd and 3rd Paragraphs), but the capacitors cited by the Examiner as providing power to the receiving and transmission components of the prior art devices can in no way be defined as “energy storage buffer capacitors” as required by Applicants’ claims.

Indeed, a review of circuit diagram shown in Figure 2 of the Weijand et al. reference, shows that the capacitors “12a” and “12b” are merely part of the transmitters oscillator and do not form part of the power supply for the transmitter (see col. 5, lines 46-61). Although all capacitors of course store energy, the capacitors of the current invention, as defined by the claims serve specifically as energy storage buffer capacitors, and thus as a part of the actual power supply of the circuit, rather than as a portion of an oscillator circuit as contemplated in the Weijand et al. reference.

Moreover, the same limitation applies to the capacitors recited in the Barreras, Sr. et al. reference. Specifically, only one of the capacitors cited by the examiner (capacitor 73) serves specifically as a “buffer capacitor” (see col. 11, lines 19-32). The other capacitor, (capacitor 104) is again merely part of an oscillator consisting of an inductor (80) and a tuning capacitor (105). Therefore there is no capacitor in the

Application No. 09/603,812

transmission circuit of the Barreras, Sr. et al device that serves as an "energy storage buffer capacitor" as claimed by Applicants.

Accordingly, neither Weijand et al. nor Barreras, Sr. et al. teach, disclose or even suggest an implant comprising a telemetry device "...at least two energy storage buffer capacitors for providing sufficient energy for the telemetry transmitter to transmit data, and . . . at least two energy storage buffer capacitors for providing sufficient energy for the telemetry receiver to receive data", as required in claim 1, or "...wherein the telemetry transmitter is connected to one of the energy storage buffer capacitors for transmitting data, and the telemetry receiver is connected to a separate one of the energy storage buffer capacitors for receiving data.", as required in claims 11 and 12, and therefore cannot anticipate, or make obvious, the claims of the current invention.

Claims 2 to 8 and 10 are all directly or indirectly dependent on claim 1. As such, these claims are believed allowable based upon claim 1.

In view of the foregoing amendments and remarks, consideration and allowance of this application are respectfully requested.

Respectfully submitted,

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